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Pitcairn

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	General	1	2
II.	Constitutional and legal developments	2–19	2
III.	Economic, social and educational conditions	20–21	3
IV.	Future status of the territory	22–23	4

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I. General

1. General information on Pitcairn[1] is contained in a previous working paper prepared by the Secretariat (A/AC.109/2012, paras. 1 and 2). According to information provided by the administering Power, on 1 June 1996 the population of Pitcairn was 58, aged from 5 to 88 years. Of these, 39 were Pitcairners and 19 were expatriates. All the inhabitants live in Adamstown, the only settlement in Pitcairn.

II. Constitutional and legal developments

2. A brief summary of constitutional arrangements in the Territory is contained in a previous working paper prepared by the Secretariat (A/AC.109/1179, paras. 4-8). A brief summary of Pitcairn's legal system is provided below.

3. Currently, the Pitcairn Order of 1970 and the Pitcairn Royal Instructions 1970 are in effect the Constitution of Pitcairn. These instruments established the office of Governor and regulate his powers and duties. The Governor is appointed by the Queen, acting on the advice of the United Kingdom Secretary of State for Foreign and Commonwealth Affairs, to whom he is accountable. In practice, the United Kingdom High Commissioner to New Zealand is appointed concurrently as Governor of Pitcairn and the responsibility for the administration of the island is accordingly vested in him and is discharged by him and officers subordinate to him.

4. Under the 1970 Order, the Governor has legislative authority for Pitcairn and is empowered to formulate laws on any subject. However, the Royal Instructions require him to obtain the prior approval of the Secretary of State for the enactment of certain classes of laws, including those that appear to the latter to be inconsistent with the United Kingdom's treaty obligations and laws that discriminate between different communities and religions.

5. Laws enacted by the Governor are styled ordinances. Formally, all ordinances are subject to disallowance by the Queen, on the advice of the Secretary of State. The United Kingdom Government retains the power to legislate directly for Pitcairn by an act of parliament or an order in council. It is under his legislative power that the Governor establishes courts for Pitcairn and regulates their jurisdiction and procedures (see paras. 12-19 below). The 1970 Order also vests in the Governor the power to appoint persons to offices in the public service and to remove or discipline them.

6. Pitcairn islanders manage their internal affairs through the Island Council. This was established by the Local Government Ordinance which confers on it the duty to provide for the enforcement of the laws of Pitcairn and empowers it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the islanders.

7. The Council is required to meet at least once every month. It consists of 10 members: the Island Magistrate, who is elected every three years; the Chairman of the Internal Committee, who is elected annually; four other elected members, who are also elected annually; the Island Secretary, who is a public officer and serves on the Council ex officio; one nominated member, who is appointed annually by the Governor; and two advisory (non-voting) members, of whom one is appointed annually by the Governor and the other is appointed annually by the other members of the Council.

8. The Island Magistrate is the President of the Island Council. He is also the Chief Executive Officer of Pitcairn and presides over the Island Court (see paras. 12-19 below).

9. The formal functions of the Internal Committee are to carry out the orders of the Island Council and to perform such duties as the Council may direct; in practice, its principal function is to organize and implement the work programme. The Committee comprises the Chairman and such other persons (not being members of the Island Council or public officers) as the Council, with the Governor's approval, may appoint.

10. To qualify for voting in elections to the various elective offices (Island Magistrate, Chairman of the Internal Committee and elected Councillors) a person must either be a native-born inhabitant of Pitcairn or have at least three years' residence on the island and must be at least 18 years of age. A candidate for election as Island Magistrate or Chairman of the Internal Committee must either be a native-born inhabitant of Pitcairn or have at least 21 years' residence on the island; candidates for the other elective offices must either be native-born inhabitants or have at least five years' residence.

11. The Island Secretary and other non-elected officials (e.g., the Postmaster, the Radio Officer and Police Officer) are appointed by the Governor, invariably after consultation with the Council. A Commissioner based in Auckland, New Zealand, carries out liaison between the Governor and the Island Council.

12. The court system of Pitcairn includes the Supreme Court, the Subordinate Court and the Island Court. In certain

cases an appeal could lie from these courts to the Judicial Committee of the Privy Council. The Supreme Court consists of such a judge or judges as the Governor, acting in accordance with instructions from the Secretary of State, may from time to time appoint. It has unlimited jurisdiction in all civil and criminal matters. Trials before the Supreme Court, whether in criminal or in civil cases, would normally be held by a judge sitting alone, but the Court has the power, in appropriate cases, to appoint between two and four assessors.

13. The Subordinate Court consists of a magistrate, who is any proper person whom the Governor appoints for that purpose. The Court ordinarily has the same jurisdiction and powers in criminal cases as a magistrate's court in England and the same jurisdiction and powers in civil cases as a county court in England, but the Governor can enlarge its jurisdiction in particular cases. There is a right to appeal in all cases to the Supreme Court.

14. The Island Court consists of the Island Magistrate sitting with two assessors, but the Magistrate is empowered (or in some circumstances is required) to sit alone in dealing with certain cases. The Island Court has a wide jurisdiction in civil disputes where the monetary amount at issue does not exceed a specified sum, and also in guardianship, custody and maintenance cases and in certain cases involving the affairs of persons of unsound mind or sick and aged persons. Some civil disputes, e.g., suits for malicious prosecution or for defamation, are specifically excluded from its jurisdiction. The Court also has the power to inquire into deaths that may have been caused or accelerated by any unnatural cause and into cases where property has been destroyed or damaged by fire. Its criminal jurisdiction covers all offences except those specifically excluded by law, but its powers of punishment are limited and it may not deal with offences committed more than six months previously. The Court would also act as the court of committal to either the Subordinate Court or the Supreme Court with regard to those criminal cases that are required to be dealt with by those courts. The Governor has the power, in relation to a case of his own motion or on the application of any party to a case determined by the Island Court, to have the record of the proceedings in that case reviewed by the Supreme Court, which could then make such orders and give such directions to the Island Court as it considers necessary or expedient in the interests of justice.

15. Although the law of Pitcairn makes comprehensive provision for the administration of justice, in practice most aspects of it scarcely ever need to be invoked. It is in fact rare even for the Island Court to be required to sit.

16. Pitcairn's Constitution, as embodied in the Pitcairn Order (1970) and the Pitcairn Royal Instructions (1970), does not contain any provisions expressly guaranteeing human rights, nor has any formal machinery been established specifically for that purpose. Under the Common Law system which operates in Pitcairn, treaties that apply to Pitcairn (including human rights treaties) do not themselves have the force of internal law and cannot be directly invoked as a source of individual rights, although the courts are required, when possible, to construe domestic legislation in such a way as to avoid incompatibility with the United Kingdom's international legal obligations. The usual method of giving effect to treaty obligations (when these require some change in existing law or practice) is to enact specific new legislation, to amend existing legislation or to adapt existing administrative practices, as the case may require.[2]

17. Where such new or amended legislation has resulted in the creation or definition of specific legal rights and those are denied or interfered with (or there is a threat of such action), a remedy is available in the courts through the ordinary procedures of civil litigation or, in appropriate cases, by criminal sanctions. For the most part, however, the legal protection of the human rights of Pitcairn islanders does not depend on specific legislation such as the two orders in council mentioned above: it is assured through the enforcement by the local courts of the basic principles of the law in force on the Island, which follow the same basic principles as the laws of England.

18. Without prejudice to the ability of the courts to grant relief and redress in any case where legal rights are infringed or threatened, the Governor has the ultimate responsibility for overseeing the implementation of human rights in Pitcairn. Any complaint of unlawful or oppressive action by any government official or authority can be raised with him, either directly or through one of his subordinate officers, and will be investigated thoroughly. If the complaint proves to be well-founded, he has the power to take appropriate remedial measures.

19. The laws in force in Pitcairn, including any specifically relating to human rights, are published by the Government of the United Kingdom and are accessible to all on the island through the Island Secretary's office.

III. Economic, social and educational conditions

20. Information on the economic, social and educational conditions in the Territory is contained in previous working

papers prepared by the Secretariat (A/AC.109/2012, paras. 4-26; and A/AC.109/2056, paras. 3-7).

21. According to previous reports by the administering Power, there are no social problems of a racial or cultural nature on Pitcairn. Women and men have equal status; personal and corporate freedoms is enjoyed and Pitcairn's legislation meets the requirements of United Nations conventions on human rights (see paras. 16-19).

IV. Future status of the Territory

Consideration by the General Assembly

22. A summary of the position of the administering Power towards its dependent Territories is contained in previous working papers prepared by the Secretariat (A/AC.109/1137, para. 17; and A/AC.109/1180, paras. 30-36). For statements made during the fifty-first session of the General Assembly, see A/AC.109/2071, para. 36.

23. On 27 March 1997, the General Assembly adopted without a vote resolution 51/224 B, a consolidated resolution on 12 Non-Self-Governing Territories, section VIII of which is specifically devoted to Pitcairn.

Notes

[1] The information contained in this paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland, under Article 73 *e* of the Charter of the United Nations, on 11 June 1996 and 13 March 1997, for the period 1994-1996.

[2] New legislation for this purpose could take the form of a locally enacted ordinance or of an order in council made by the United Kingdom Government. Examples of orders in council made for this purpose are the Geneva Conventions Act (Colonial Territories) Order in Council 1959, which implemented the four Geneva Conventions in Pitcairn and a number of other British dependent Territories, and the Criminal Justice Act 1988 (Torture) (Overseas Territories) Order 1988, which similarly implemented the Convention against Torture, etc.